

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

AYABE, CHONG, NISHIMOTO,
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A Limited Liability Law Partnership

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DENNIS WARREN, ESQ.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

KELLEY WOODRUFF, M.D. and
HAWAII CHILDREN'S BLOOD AND
CANCER GROUP,

Plaintiffs,

vs.

HAWAII PACIFIC HEALTH;
KAPI'OLANI MEDICAL SPECIALISTS;
KAPI'OLANI MEDICAL CENTER FOR
WOMEN AND CHILDREN; ROGER
DRUE; FRANCES A. HALLONQUIST;
NEAL WINN, M.D.; SHERREL
HAMMAR, M.D.; DELOITTE & TOUCHE
LLP; DENNIS M. WARREN, ESQ.;
JOHN DOES 1-99; JANE DOES 1-99
DOE ENTITIES 1-20; AND DOE
GOVERNMENTAL UNITS 1-10,

Defendants.

) CIVIL NO. 02-1-0090-01 BIA
) (Other Civil Action)
) ORDER GRANTING DEFENDANT
) DENNIS WARREN, ESQ.'S MOTION FOR
) SUMMARY JUDGMENT (FILED APRIL
) 13, 2006) AND SUBSTANTIVE
) JOINDERS THERETO FILED ON
) BEHALF OF DEFENDANT DELOITTE &
) TOUCHE LLP AND DEFENDANTS
) HAWAII PACIFIC HEALTH, KAPI'OLANI
) MEDICAL SPECIALISTS, KAPI'OLANI
) MEDICAL CENTER FOR WOMEN AND
) CHILDREN, ROGER DRUE, FRANCES
) A. HALLONQUIST, NEAL WINN, M.D.,
) AND SHERREL HAMMAR, M.D.
)
) HEARING:
) DATE: September 21, 2006
) TIME: 10:30 a.m.
) JUDGE: The Honorable Bert I. Ayabe
)
) TRIAL DATE: October 1, 2007

ORDER GRANTING DEFENDANT DENNIS WARREN, ESQ.'S MOTION FOR SUMMARY JUDGMENT (FILED APRIL 13, 2006) AND SUBSTANTIVE JOINDERS THERETO FILED ON BEHALF OF DEFENDANT DELOITTE & TOUCHE LLP AND DEFENDANTS HAWAII PACIFIC HEALTH, KAPI'OLANI MEDICAL SPECIALISTS, KAPI'OLANI MEDICAL CENTER FOR WOMEN AND CHILDREN, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., AND SHERREL HAMMAR, M.D.

Defendant DENNIS WARREN, ESQ.'s (hereafter "Mr. Warren's") Motion For Summary Judgment (filed April 13, 2006) (hereafter "Motion") and the Substantive Joinders thereto filed on behalf of Defendant DELOITTE & TOUCHE LLP (hereafter "D&T") and Defendants HAWAII PACIFIC HEALTH, KAPI'OLANI MEDICAL SPECIALISTS, KAPI'OLANI MEDICAL CENTER FOR WOMEN AND CHILDREN, (hereafter "HPH Defendants" collectively), ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., and SHERREL HAMMAR, M.D. came on regularly for hearing on September 21, 2006 at 10:30 a.m. before the Honorable Bert I. Ayabe, Judge of the above entitled Court. Arleen D. Jouxson, Esq. and Rafael G. Del Castillo, Esq. appeared on behalf of Plaintiffs KELLEY WOODRUFF, M.D. and HAWAII CHILDREN'S BLOOD AND CANCER GROUP (hereafter "Plaintiffs" collectively). Kenneth S. Robbins, Esq. appeared on behalf of the HPH Defendants, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., and SHERREL HAMMAR, M.D. John T. Komeiji, Esq. and Karen Y. Arikawa, Esq. appeared on behalf of Defendant D&T. John S. Nishimoto, Esq. and Michael J. Van Dyke, Esq. appeared on behalf of Defendant Mr. Warren.

KELLEY WOODRUFF, M.D. vs. HAWAII PACIFIC HEALTH, et al.; Civil No. 02-1-0090-01 (BIA); ORDER GRANTING DEFENDANT DENNIS WARREN, ESQ.'S MOTION FOR SUMMARY JUDGMENT (FILED APRIL 13, 2006) AND SUBSTANTIVE JOINDERS THERETO FILED ON BEHALF OF DEFENDANT DELOITTE & TOUCHE LLP AND DEFENDANTS HAWAII PACIFIC HEALTH, KAPI'OLANI MEDICAL SPECIALISTS, KAPI'OLANI MEDICAL CENTER FOR WOMEN AND CHILDREN, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., AND SHERREL HAMMAR, M.D.

The Court, having reviewed and considered the memoranda and exhibits submitted by the parties, having heard the arguments of counsel, and based upon the applicable law of Hawaii and the records, files, and pleadings herein, finds that there are no genuine issues as to any material fact for the adjudication of Mr. Warren's Motion and that Plaintiffs represented in their Opposition to Mr. Warren's Motion and in open Court at the hearing of said Motion that the only counts applicable to Mr. Warren are Counts IX (Defamation), X (Retaliatory Discharge), and XV (Prima Facie Tort).

With respect to Plaintiffs' Count IX (Defamation), the Court finds that Mr. Warren had a qualified privilege as to both the statements made in the Voluntary Disclosure Submission (hereafter "VDS") and the presentation of the seminar.

With respect to the statements made in the VDS, the Court finds: that as attorney for the HPH Defendants, Mr. Warren had a private duty to ensure that the HPH Defendants were in full compliance with the self-reporting requirements of the Corporate Integrity Agreement (hereafter "CIA") which the HPH Defendants had entered into with the Office of Inspector General (hereafter "OIG"); that the OIG had a corresponding interest in the investigation findings and reports of invalid billing; that based upon the evidence presented, there is no genuine issue of material fact that Mr. Warren reasonably acted in the discharge of his duty and that the qualified privilege was not abused.

KELLEY WOODRUFF, M.D. vs. HAWAII PACIFIC HEALTH, et al.; Civil No. 02-1-0090-01 (BIA); ORDER GRANTING DEFENDANT DENNIS WARREN, ESQ.'S MOTION FOR SUMMARY JUDGMENT (FILED APRIL 13, 2006) AND SUBSTANTIVE JOINDERS THERETO FILED ON BEHALF OF DEFENDANT DELOITTE & TOUCHE LLP AND DEFENDANTS HAWAII PACIFIC HEALTH, KAPI'OLANI MEDICAL SPECIALISTS, KAPI'OLANI MEDICAL CENTER FOR WOMEN AND CHILDREN, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., AND SHERREL HAMMAR, M.D.

With respect to the presentation of the seminar, the Court finds: as attorney for the HPH Defendants, Mr. Warren had a private duty to ensure that the HPH Defendants fully complied with the CIA in training and educating its employees in proper billing practices; that the attendees at said seminar had an interest in complying with proper billing practices; that based upon the evidence presented, there is no genuine issue of material fact that Mr. Warren reasonably acted in the discharge of his duty and that the qualified privilege was not abused.

Therefore, the Court grants Mr. Warren's Motion as to Plaintiffs' Count IX (Defamation).

With respect to Plaintiffs' Counts X (Retaliatory Discharge) and XV (Prima Facie Tort), the Court finds that Plaintiffs have not produced any competent evidence to support said Counts. Therefore, the Court grants Mr. Warren's Motion as to Counts X (Retaliatory Discharge) and XV (Prima Facie Tort).

As to the Substantive Joinders in Mr. Warren's Motion filed on behalf of Defendant D&T and the HPH Defendants, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., and SHERREL HAMMAR, M.D., the Court will treat them as Joinders rather than Substantive Joinders. The Court finds that the Substantive Joinders submitted failed to present any argument as to why summary judgment should be granted to those Defendants. In light of this, the Court therefore grants D&T's and the HPH Defendants, ROGER DRUE, FRANCES A. HALLONQUIST,

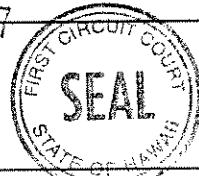
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NEAL WINN, M.D., and SHERREL HAMMAR, M.D.'s Joinders. This does not preclude D&T and the HPH Defendants, ROGER DRUE, FRANCES A. HALLONQUIST, NEAL WINN, M.D., and SHERREL HAMMAR, M.D. from filing their own motions regarding these Counts in the future.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant DENNIS WARREN, ESQ.'s Motion for Summary Judgment is granted in its totality, that Defendant DENNIS WARREN, ESQ. is entitled to judgment as a matter of law, and that Judgment shall be entered in favor of Defendant DENNIS WARREN, ESQ. and against Plaintiffs.

DATED: Honolulu, Hawaii, MAR 02 2007.

BERT I. AYABE



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

ARLEEN D. JOUXSON, ESQ.
RAFAEL G. DEL CASTILLO, ESQ.
Attorneys for Plaintiffs

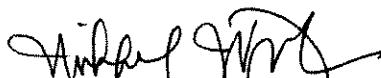
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KELLEY WOODRUFF, M.D. vs. HAWAII PACIFIC HEALTH, et al., Civil No. 02-1-0090-01 (BIA); ORDER GRANTING
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